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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/584,232	05/31/2000	Daniel J. Greden	MCS-119-99	2434

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LYON & HARR, LLP  
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OXNARD, CA 93036

EXAMINER
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RHODE JR, ROBERT E

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/584,232

**Applicant(s)**

GREDEN ET AL.

**Examiner**

Rob Rhode

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date 24 Feb 2005
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant amendment of 12-7-04 amended claims 1,10 and 20 as well as traversed rejections of Claims 1 - 27.

Currently, claims 1- 27 are pending.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1 - 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burge (US 6,014,638) in view of Rizzo (US 6,470,338 B1).**

Regarding claim 1 and related claims 10 and 20 (currently amended), Burge teaches a computer implemented method and system for finding a prospective buyer and providing the identity of the buyer to agents offering for sale at least one of products or services, the method comprising using a computer to perform the following process actions:

providing the buyer with an interactive environment having information relating to the products or services offered by the agents (see at least Abstract and Figures 2A & B),

creating a profile of the buyer by inferring criteria desired by the buyer based on the buyer's interaction with the interactive environment (see at least Col 3, lines 1 – 17),

comparing the profile and the inferred criteria with criteria of the products or services offered by the agents to match a suitable agent with a suitable buyer based on the created profile of the buyer (see at least Col 5, lines 16 – 37 and lines 51 -67 as well as Col 6, lines 1 – 5).

Please note that Burge does not specifically disclose agent(s). However, Burge does disclose buyers (shoppers/users) and sellers (merchants). Moreover, it is well known that agents sell things such as homes and these agents as with most sellers specialize in certain attributes or types of products. For example, the seller/agent could specialize, as merchants do in certain products and in this case the agent could focus and be interested in dealing only with buyers that want products worth one million or above in value or only ones that are interested in investment properties. Thereby, the merchants with a specific product focus area such as casual products are more interested in having them matched with buyer's who are currently interested in casual cloths. In this regard, the buyer and seller both save time in the process of searching as well as saving money too. For example, the merchant will have to do less mass advertising in order to obtain interested buyers. Therefore and for examination purposes, the merchants

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(sellers) attributes such as specialized product focus (i.e. casual clothes) were treated as equivalent to agents (Sellers) attributes and as importantly an agent was treated as equivalent to a seller such as a merchant.

While Burge in the same area of an online method for matching and providing the identity of the shopper/buyer to the appropriate seller/agent, the reference does not specifically disclose a method and system for automatically providing the identity of the suitable buyer to the suitable agent without action from the agent.

Please note that applicant did not define identity. In that regard and in broad and reasonable interpretation of word identity for examination purposes, the definition of the word identity was defined as a characteristic that identifies the buyer through a generic characteristic such as a file/message identified for example with a Case ID and short description of the individual and their needs.

On the other hand and in the same area of online method and system providing the identity of shopper/buyer to the seller/agent, Rizzo teaches a method and system for automatically providing the identity of the suitable buyer to the suitable agent without action from the agent (see at least Col 1, lines 54 - 57, Col 4, lines 12 - 21 and Figure 5B).

It would have been obvious to one of ordinary skill in the art to have provided the method and system of Burge with the method and system of Rizzo to have enabled a method and system for a computer implemented method and system

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for finding a prospective buyer and providing the identity of the buyer to agents offering for sale at least one of products or services, the method comprising using a computer to perform the following process actions: providing the buyer with an interactive environment having information relating to the products or services offered by the agents; creating a profile of the buyer by inferring criteria desired by the buyer based on the buyer's interaction with the interactive environment; comparing the profile and the inferred criteria with criteria of the products or services offered by the agents to match a suitable agent with a suitable buyer based on the created profile of the buyer; and automatically providing the identity of the suitable buyer to the suitable agent without action from the agent – in order to more closely match the requirements/attributes of both buyer and seller, which will increase the probability of transaction. Burge discloses a method and system for a computer implemented method and system for finding a prospective buyer and providing the identity of the buyer to agents offering for sale at least one of products or services, the method comprising using a computer to perform the following process actions: providing the buyer with an interactive environment having information relating to the products or services offered by the agents; creating a profile of the buyer by inferring criteria desired by the buyer based on the buyer's interaction with the interactive environment; comparing the profile and the inferred criteria with criteria of the products or services offered by the agents to match a suitable agent with a suitable buyer based on the created profile of the buyer (see at least Abstract and Col 3, lines 12 – 17). Rizzo discloses a method and system for automatically

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providing the identity of the suitable buyer to the suitable agent without action from the agent (see at least Col 1, lines 45 - 48, Col 4, lines 12 -21 and Figure 5B). Therefore, one of ordinary skill in the art would have been motivated to extend the method and system of Burge with a method and system for automatically providing the identity of the suitable buyer to the suitable agent without action from the agent. In this manner, the seller/merchant/agent will receive a notice automatically of a buyer matching their criteria/products, which in turn will provide a faster response to the buyer/shopper with a seller most closely matched to their requirements. Moreover, the method and system will save time for both and also save money for the merchant by reducing their mass advertising budget.

Regarding claim 2 (original) and related claims 11 and 21, Burge teaches a computer implemented method and system, wherein the interactive environment includes allowing the buyer to graphically interact with information relating to the products or services (Figure 2A).

Regarding claim 3 (original) and related claims 13 and 23, Burge teaches a computer implemented method and system, wherein the buyer selects information relating to the products or services (Figure 2A).

Regarding claim 4 (original) and related claims 12, 14 and 22, Burge teaches a computer implemented method and system, wherein the profile is created based

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on the selections made by the buyer during interaction with the interactive environment (Col 3, lines 3 – 7).

Regarding claim 5 (original) and related claims 15 and 24, Rizzo teaches a computer implemented method and system, wherein the interactive environment includes providing an interactive questionnaire to the buyer (Abstract).

Regarding claim 6 (original) and related claim 16, Rizzo teaches a computer implemented method and system, wherein the method and system operates on a computer-readable medium having computer-executable instructions for finding a prospective buyer and providing the buyer to an agent offering for sale at least one of products or services (Col 1, lines 40 – 43 and lines 54 - 57).

Regarding claim 7 (currently amended), Burge teaches a computer implemented method and system further comprising the process action of creating a database of buyer profiles and defining groups of specific criteria for specific buyers (Col 5, lines 22 - 25).

Regarding claim 8 (currently amended) and related claim 18, Rizzo teaches a computer implemented method and system, further comprising the process action of providing agents access to the database to allow the agents to locate specific buyers based on criteria defined by the agents (Col 4, lines 24 – 35).



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Regarding claim 9 (original), Burge teaches a computer implemented, wherein comparing the profile and the inferred criteria with criteria of the products or services includes matching specific products or services of the agents that the buyer has a potential interest in based on the generated profile of the buyer (Col 3, lines 1 - 12).

Regarding claim 17 (original), Burge teaches a computer system, wherein the comparator creates a database of buyer profiles and defines groups of specific criteria for specific buyers (Col 5, lines 22 - 24).

Regarding claim 19 (previously submitted), Burge teaches a computer system, wherein the comparator compares the profile and the inferred criteria with criteria of the products or services by matching specific products or services of the agents that the buyer has a potential interest in based on the created profile of the buyer (Col 3, lines 1 – 12 and Col 5, lines 16 - 35).

Regarding claim 25 (previously submitted) and related claims 26 and 27, Burge teaches a method, wherein comparing the profile and inferred criteria with criteria of the products or services offered by the agents to match a suitable agent with a suitable buyer based on the created profile of the buyer is automatic (Col 5, lines 1 – 12 and Col 10, lines 27 - 45).

***Response to Arguments***

Applicant argues regarding the 35 USC 101 rejection of claims 1- 9 that these claims as currently recited meet the 35 USC 101 requirements.

The applicant's arguments regarding the recitation that " method comprising using a computer to perform the following process" is persuasive and thereby the rejection is withdrawn.

Applicant argues that with the Burge reference, it would be impossible for the seller to obtain the buyers identity.

First, the applicant does not define identity. In this case, Burge does teach that the buyer purchase's products and the method and system of Burge also track these purchases (Abstract and Col 50 – 61). In purchasing a product online, it is well known that the seller would obtain the identity of the buyer with the input of the name and credit number of the buyer.

Applicant argues that Rizzo does not "automatically provide the identity of the suitable buyer to the suitable agent without action from the agent".

Please see above rejection and noted reference sections.

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Applicant argues that each individual reference does not disclose all the recite claim language limitations.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues that there was no motive to combine the references and that the reference of Rizzo destroys the use of the Burge reference.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). First, the problem to be solved is to more effectively and efficiently match buyers and sellers in an online environment and thereby enhance the matching process with the corresponding benefits for both. In this case, the references disclose and teach one of ordinary skill that there is a need to match buyers and sellers more efficiently and efficiently. For example, Burge discloses a method and system and a need for more effectively matching buyers

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and sellers based on and meeting the criteria/attributes requirements of each as well as the corresponding benefits for both (see at least Col 3, lines 12 – 17). In turn, Rizzo discloses an online method and system that identifies a need for more effectively matching buyers and sellers, which are based on and more closely match the criteria/attributes requirements of each party (see at least Col 1, lines 24 – 48). In this manner, both parties save time in the search for the other and save the seller money as well. Moreover, the two references disclose the need for more effective matching process and thereby the obvious combination of the two further enhances the matching process without destroying either the intent or the technology of the other reference. Therefore, one of ordinary skill in the art would have been motivated to extend the method and system of Burge with a method and system for automatically providing the identity of the suitable buyer to the suitable agent without action from the agent. In this manner, the effectiveness and efficiency of the matching process for both are enhanced and thereby lessen the burden on each for locating and transacting with other parties that most closely satisfy each entities criteria/attributes requirements.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **(703) 305-8230**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **(703) 308-1344**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

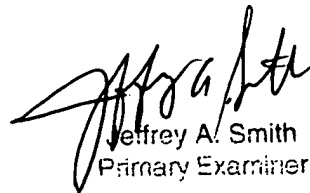
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Hand delivered responses should be brought to Crystal Park 5, 2451  
Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

RER



Jeffrey A. Smith  
Primary Examiner